

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
(DANVILLE DIVISION)**

UNITED STATES OF AMERICA)
v.) Case Number: 4:18CR00011-04
DASHAUN LAMAR TRENT)

**DEFENDANT'S RESPONSE TO UNITED STATES' REPLY (ECF 469) OR TO
CONTINUE PRE-TRIAL HEARING UNTIL JULY 19, 2019.**

COMES NOW your defendant, Dashaun Lamar Trent, by counsel, and, once again, respectfully moves this Honorable Court for entry of an Order denying the relief sought in the United States' Motion to Consolidate Hearings, or, in the alternative, to continue the hearing to July 19, 2019, at 10:00 a.m. and states the following in support thereof:

(1) On May 21, 2019 the United States, by and through her counsel of record, filed a responsive pleading (ECF 469) to *Defendant's Opposition to United States' Motion for Consolidated Hearing* (ECF467).

(2) The United States makes two points in support of her motion: (i) it will be more efficient for all the parties to have a consolidated hearing; (ii) since two counsel represent Mr. Trent, the other counsel, "Mr. Kenney can appear and argue the motion for his client, as he has done at prior hearings."¹

(3) As to whether or not it will be more efficient to combine the hearings - the Court has already decided that issue. This Court has already held several pre-trial

1 ECF 469 at page 1.

hearings with both cases having their own separate hearing as to the same issues and has favored substance over efficiency.

(4) As to Mr. Kenney appearing and arguing the motion - Mr. Trent deserves the benefit of the legal arguments being presented by the lawyer (not Mr. Kenney) that wrote the motion and is more familiar with the caselaw. While it is true that Mr. Kenney appeared at the July 31, 2018, hearing, contrary to the assertion by the United States, motions were not argued. The Court simply inquired as to whether the defendants objected to the case being designated as complex, agreed to not set a trial date, having a status or review hearing until the Department of Justice decided whether to seek the death penalty, and other administrative matters.

(5) Dashaun Lamar Trent has two lawyers - the United States Department of Justice has legions of lawyers. It is far easier for the United States to find another lawyer to argue these issues than *upset* a schedule that has been months in the making and upon which all the lawyers rely.

(6) In the alternative, since the Supreme Court of the United States has yet to issue an opinion in *United States v. Davis*² it is respectfully suggested that this hearing be continued in its entirety to the next scheduled pre-trial hearing. A continuance will allow time for the Supreme Court of the United States to rule on the *Davis* case thus giving the Court and the parties guidance as to how to proceed. Additionally, the Court could still

² Supreme Court of the United States Docket Number 18-431, argued April 17, 2019. The United States filed a Petition for *Writ of Certiorari* on October 30, 2018, appealing a decision of the United States Court of Appeals for the Fifth Circuit. The issue is whether the subsection-specific definition of "crime of violence" in 18 U.S.C. § 924(c)(3)(B), which applies only in the limited context of a federal criminal prosecution for possessing, using or carrying a firearm in connection with acts comprising such a crime, is unconstitutionally vague.

have a hearing on June 7, 2019, at the regularly scheduled times (both cases) and handle matters other than the motions to dismiss (the *Davis* issue) for which counsel of record for the United States could certainly handle.

WHEREFORE, your defendant respectfully moves this Honorable Court for entry of an Order denying the relief sought in the United States' Motion to Consolidate Hearings or, in the alternative, to continue this hearing to the next regularly scheduled pre-trial hearing date: July 19, 2019 at 10:00 a.m. - or, to continue only the *Davis* issues.

Respectfully submitted,

DASHAUN LAMAR TRENT

By /s/ Chris K. Kowalcuk

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CERTIFICATE OF SERVICE

I, Christopher K. Kowalcuk, Esquire, hereby certify that on this 22nd day of May, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

/s/ Chris K. Kowalcuk